

Message Text

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ORIGIN EB-07

INFO OCT-01 NEA-10 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00

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DRAFTED BY EB/AN:JCOOK:DAP

APPROVED BY EB/AN:WBCOBB

CAB - M. PETT

NEA/IRN - MR. NAAS

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R 200029Z SEP 75

FM SECSTATE WASHDC

TO AMEMBASSY TEHRAN

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E.O. 11652:N/A

TAGS: EAIR, IR

SUBJECT: CIVAIR: NO OBJECTION FEE

1. FOLLOWING LETTER DATED SEPTEMBER 11 FROM CHAIRMAN OF
CAB WAS SENT TO SECRETARY KISSINGER:

"DEAR MR. SECRETARY:

"THE BOARD IS CONCERNED ABOUT THE PRACTICE FOLLOWED BY THE
GOVERNMENT OF IRAN OF GIVING IRAN AIR, ITS NATIONAL CARRIER,
A RIGHT OF FIRST REFUSAL OVER ALL CHARTER FLIGHTS TO IRAN
BY UNITED STATES CARRIERS (OTHER THAN PAN AMERICAN). OF
GREATER CONCERN, HOWEVER, IS IRAN AIR'S PRACTICE OF CHARG-
ING U.S. CARRIERS A FEE FOR NOT OBJECTING TO SUCH CHARTERS.
THE BOARD VIEWS THIS PRACTICE AS CLEARLY CONTRARY TO THE
PUBLIC INTEREST, AND, TO THE EXTENT POSSIBLE, HAS TAKEN
STEPS TO NULLIFY IT. IN CONNECTION WITH RECENT APPLICA-
TIONS BY A U.S. SUPPLEMENTAL AIR CARRIER FOR AUTHORIZATION
TO OPERATE FLIGHTS TO IRAN, THE BOARD'S STAFF HAS REQUESTED
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STATEMENTS FROM BOTH THE APPLICANT CARRIER AND THE CHARTER-

ING ORGANIZATION CERTIFYING THAT NO SUCH FEE HAS BEEN OR WILL BE PAID TO IRAN AIR. WHERE SUCH A FEE HAS BEEN OR WILL BE PAID, THE APPLICATIONS HAVE BEEN DENIED.

"IT IS SIGNIFICANT THAT IN THE EXEMPTION APPLICATIONS FOR THE ONE CHARTER DENIED SO FAR THE CHARTERER WAS ULTIMATELY ABLE TO BRING TO BEAR SUFFICIENT PRESSURE TO SECURE A WAIVER OF THE "NON-OBJECTION" FEE. WE BELIEVE THAT SO LONG AS FLIGHTS INVOLVE THE TRANSPORTATION OF CARGO CRITICAL TO IRAN'S ECONOMY, DENIAL BY THE C.A.B. MAY BE EFFECTIVE IN FORCING WAIVERS OF THE FEE. THIS IS PARTICULARLY LIKELY TO RESULT SO LONG AS IRAN AIR DOES NOT HAVE EQUIPMENT TO PERFORM THE SERVICES ITSELF. WE ARE ENCLOSING FOR YOUR INFORMATION COPIES OF THE ORDERS EFFECTING THE FOREGOING ACTIONS.

"ALTHOUGH THE BOARD CAN, AND WILL, DEAL WITH THIS SITUATION ON AN AD HOC BASIS, THIS IS NOT AN IDEAL SOLUTION TO THE PROBLEM. FIRST, DENIAL OF EXEMPTIONS SERVES TO DISRUPT COMMERCE BETWEEN THE UNITED STATES AND IRAN AND DENIES U.S. CARRIERS NEEDED REVENUES. SECOND, IT MAY DELAY OR FORECLOSE CERTAIN U.S. EXPORTS. THIRD, NOT ALL U.S. CARRIERS REQUIRE OUR SPECIFIC APPROVAL TO OPERATE OCCASIONAL CHARTERS TO IRAN. WE BELIEVE A MORE DESIRABLE SOLUTION IS FOR THE GOVERNMENT OF IRAN TO DISCONTINUE ITS POLICY OF GRANTING FIRST REFUSAL RIGHTS TO IRAN AIR, OR AT LEAST TO REQUIRE A DISCONTINUANCE OF IRAN AIR'S POLICY OF CHARGING A NON-OBJECTION FEE. WE BELIEVE THAT THESE POLICIES ARE CLEARLY DISCRIMINATORY AND REPRESENT UNFAIR COMPETITIVE PRACTICES AGAINST U.S. AIR CARRIERS WHICH ARE SUBJECT TO THE INTERNATIONAL AIR TRANSPORTATION FAIR COMPETITIVE PRACTICES ACT OF 1974 (PUBLIC LAW 93-623).

"WE, THEREFORE, REQUEST THAT YOU INITIATE INTERGOVERNMENTAL NEGOTIATIONS WITH THE GOVERNMENT OF IRAN LOOKING TOWARD THE SOLUTION OF THESE PROBLEMS. WE ARE ALSO REQUESTING THE DEPARTMENT OF TRANSPORTATION TO TAKE APPROPRIATE ACTION."

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IDENTICAL LETTER TO SECRETARY COLEMAN DOT CONCLUDED WITH FOLLOWING PARAGRAPH:

"WE ARE BRINGING THIS MATTER TO YOUR ATTENTION SO THAT PURSUANT TO YOUR RESPONSIBILITY UNDER THE INTERNATIONAL AIR TRANSPORTATION FAIR COMPETITIVE PRACTICES ACT OF 1974 (PUBLIC LAW 93-623) YOU MAY TAKE APPROPRIATE ACTION. WE ARE ALSO REQUESTING THE DEPARTMENT OF STATE TO TAKE

SIMILAR ACTION."

2. DEPT UNDERSTANDS FROM INDUSTRY SOURCES THAT IRAN AIR
NO LONGER CHARGING "NO OBJECTION FEE". IF THAT IS SO,

IN LIGHT OF CAB INITIATIVE, IT WOULD BE USEFUL TO HAVE
OFFICIAL IRANIAN POLICY STATEMENT ON "NO OBJECTION FEES".
DEPT SUGGESTS EMBASSY INFORM APPROPRIATE GOI AUTHORITIES
OF SUBSTANCE OF CAB POSITION AND REQUEST CLARIFICATION
OF OFFICIAL IRANIAN POLICY ON US ORIGIN CHARTERS.
FYI: DEPT UNDERSTANDS BOARD IS CONSIDERING ISSUING ORDER
REQUIRING IRAN AIR TO OBTAIN PRIOR APPROVAL FOR ON-ROUTE
CHARTER FLIGHTS BECAUSE OF NO OBJECTION FEE. IN ADDITION,
BOARD HAS PENDING AN ORDER SUSPENDING IRAN AIR AND MATCH-
ING PAA DISCOUNT FARES. AVIATION ISSUES THUS COMING TO
A HEAD WITH LESS AND LESS ROOM FOR COMPROMISE. END FYI.
KISSINGER

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